

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 November 2024

Public Authority: Dr A Sivaprasad, Dr J Sorouji, Dr S Azeem, Dr O Aderonmu and Dr N Viswanath (GP Partners of Queensway Surgery)

Address: 75 Queensway
Southend-on-Sea
Essex SS1 2AB

Decision (including any steps ordered)

1. The Commissioner's decision is that Queensway Surgery ('the Surgery') is entitled to refuse to comply with one element of the complainant's request for information about appointments. It would exceed the appropriate limit to comply with this part and therefore section 12(1) of FOIA is engaged.
2. The Surgery failed to comply with its duty under section 16)(1) to offer advice and assistance. Initiated by the complainant, the Surgery has subsequently been in further correspondence with the complainant about refining the request. As such, the Commissioner doesn't require the Surgery to take any steps in relation to advice and assistance as a result of this notice.
3. Finally, the timeliness of the Surgery's response and its section 12 refusal didn't comply with sections 1(1), 10(1) and 17(5) of FOIA.
4. It's not necessary for the Surgery to take any corrective steps.

Request and response

5. The complainant made the following information request to the Surgery on 11 June 2024:

"Please accept this as a request for information pursuant to the Freedom of Information Act.

- 1) W/C 3rd June to 7th June 2024, please provide the total number of appointments that were available to be booked with a General Practitioner (the number should include all appointments, regardless of what means it was bookable and for the purpose of clarification "available" = appointments that were for example FTA'd / cancelled at short notice or unfilled.) and are consultations held in-person or by telephone.
- 2) On the below days, at what time in the morning were the majority of appointments scheduled for release onto the Online Booking System that is accessible by patients
 - a) Monday 3rd June –
 - b) Tuesday 4th June –
 - c) Wednesday 5th June –
 - d) Thursday 6th June –
 - e) Friday 7th June –
- 3) On the below days, at what time in the afternoon were the majority of appointments scheduled for release onto the Online Booking System that is accessible by patients
 - a) Monday 3rd June –
 - b) Tuesday 4th June –
 - c) Wednesday 5th June –
 - d) Thursday 6th June –
 - e) Friday 7th June –
6. In a response to the request of 13 June 2024, the Surgery indicated that it didn't hold the requested information as it would be impractical or resource intensive to provide it. It advised the complainant to complain to the Commissioner if they were dissatisfied.
7. Following the Commissioner's intervention, the Surgery carried out an internal review on 2 July 2024. The Surgery again indicated that it would take too long to compile the requested information.
8. As a result of the subsequent complaint to the Commissioner, the Surgery provided the complainant with a fresh response to their request on 7 November 2024. It provided the total number of appointments available, and the number of online bookable appointments, for the week commencing 3 June 2024. The Surgery advised that it couldn't provide the exact timings when online appointments were released because it would take more than 18 hours to collate this information.
9. The complainant wrote to the Surgery to see if their request could be refined. The Commissioner therefore suggested to the complainant that their complaint about their request of 11 June 2024 could be closed. The

complainant disputed that they'd submitted a new, refined request to the Surgery and so, to conclude the matter in a timely manner, the Commissioner is making a formal decision on that original request.

Reasons for decision

10. This reasoning covers whether the Surgery is entitled to rely on section 12(1) of FOIA to refuse to comply with part of the complainant's request. It will also consider the Surgery's compliance with section 16(1) and other procedural aspects of its handling of the request.
11. Under section 12(1) of FOIA a public authority is entitled to refuse to comply with a request if the cost of doing so would exceed the appropriate limit, which is £450 or 18 hours for an authority such as the Surgery.
12. Section 16(1) places a duty on a public authority relying on section 12 to offer the applicant advice and assistance to help them refine their request to bring complying with it within the cost limit, if it's possible for the request to be refined. The authority should also advise the applicant if it considers that it wouldn't be possible to refine the request.
13. In its 7 November 2024 response to the complainant, the Surgery explained that determining when online appointments were released would require an in-depth review of patient booking records. The Surgery would need to access the records of 407 patients who booked an appointment online and track when they were able to secure their slots. It said that this would involve manually going through each medical record, the appointment booking history, analysing the release patterns, and verifying the time stamps for when each appointment became available.
14. The Surgery advised that, given the volume of records in scope, the process would be time-consuming. It also noted that such a review would be restricted by privacy considerations because of the confidentiality associated with patient data.
15. The Commissioner has noted the process that's involved in compiling the requested information, and the number of patients in scope. If it were to take five minutes to review the records of one patient, which the Commissioner considers is a reasonable estimate in the circumstances, it would take almost 34 hours to comply with this element of the request. No evidence has been presented to suggest that there is a quicker way of accessing this information. As such, the Commissioner is therefore satisfied that section 12(1) of FOIA is engaged.

16. However, the Surgery didn't offer the complainant any advice and assistance, including advising whether or not the request could be refined, and therefore it didn't comply with section 16(1) of FOIA.
17. Section 1(1) of FOIA obliges a public authority to confirm whether it holds information an applicant has request and to communicate the information to the applicant if it's held and isn't exempt.
18. Under section 10(1) the authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
19. If the authority is relying on section 12, under section 17(5) it must provide the applicant with a notice stating that fact within the same 20 working day timescale.
20. In this case, the complainant submitted their request on 11 June 2024. The public authority didn't communicate relevant information until 7 November 2024. And although it had alluded to time limits in its correspondence, the Surgery didn't state it was relying on section 12(1) of FOIA in respect of part of the request.
21. The Commissioner therefore finds that the Surgery didn't comply with sections 1(1), 10(1) and 17(5) on this occasion.

Other matters

22. The Commissioner understands that the Surgery has had a change of staff recently. However, its engagement with the Commissioner has been poor during the course of this investigation, including the issuing of an information notice under section 51 of FOIA at the start.
23. The Commissioner has also reviewed the Surgery's early correspondence with the complainant. It seems to him that the complainant's request came about because they'd asked the Surgery several times to let them know at what time of day it released its appointments. The Surgery only provided very vague references and so the complainant resorted to FOIA.
24. The Commissioner would be surprised if the Surgery didn't have a standard window when appointments are released - even if that varies by a few minutes from day-to-day. Perhaps there's a good reason why it couldn't, but he wondered why the Surgery couldn't have advised the complainant, for example, "We normally release morning appointments between 07:30 and 08:00 and afternoons between 11:00 and 11:30, but this varies on the day depending on workload." A request under

FOIA and the subsequent work that that has involved might have been avoided.

25. Finally, the Commissioner reminds the Surgery that, in certain circumstances, if it would exceed the cost limit to comply with one element of a request, a public authority isn't obliged to comply with any element of the request. The Commissioner's published guidance on section 12 includes a discussion about aggregating requests¹.

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-12-requests-where-the-cost-of-compliance-exceeds-the-appropriate-limit/#aggregate>

Right of appeal

26. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

27. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF